

GROSS MISCONDUCT

COBRA contains no definition of gross misconduct. Based solely on the legislative history, it is clear that being terminated for gross misconduct is not the same as being terminated simply "for cause". Unfortunately, the courts have not agreed on a common standard to apply in gross misconduct cases and have rejected the state-by-state approach in favor of fashioning a uniform federal standard of gross misconduct. One such court fashioned the following definition of gross misconduct:

Gross misconduct may be intentional, wanton, willful, deliberate, reckless or in deliberate indifference to the employer's interest. It is misconduct beyond mere minor breaches of employee standards, but conduct which would be considered gross in nature.